

AMENDED IN SENATE JUNE 1, 1999
AMENDED IN SENATE APRIL 19, 1999
AMENDED IN SENATE APRIL 8, 1999
AMENDED IN SENATE MARCH 16, 1999

SENATE BILL

No. 288

Introduced by Senator Peace

(Principal coauthor: Assembly Member Washington)

(Coauthors: Senators *Alarcon*, *Alpert*, *Baca*, *Brulte*, *Chesbro*, *Costa*, *Dunn*, *Figueroa*, *Hayden*, *Hughes*, *Johnson*, *Johnston*, *Karnette*, *Kelley*, *McPherson*, *Morrow*, *Murray*, *O'Connell*, *Ortiz*, *Perata*, *Polanco*, *Schiff*, *Sher*, *Solis*, and *Speier*)

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February 2, 1999

An act to add Sections 12301.3, 12301.4, and 12302.25 to, and to repeal Section 12302.7 of, the Welfare and Institutions Code, relating to human services.



LEGISLATIVE COUNSEL'S DIGEST

SB 288, as amended, Peace. IHSS program: administration.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

This bill would require each county to act as, or establish, an employer for in-home supportive service personnel for purposes of provisions of statutory law regarding employer-employee relations and would require the department to establish a timetable for implementation of that requirement. This bill would also require each county that has not established a public authority for the provision of IHSS services to establish an advisory committee and would require the advisory committee in each county to provide recommendations on certain modes of service to be utilized in the county for in-home supportive services.

Because counties are responsible for administration of the IHSS program and participate in the funding of that program, this bill, by requiring counties to appoint an advisory committee, would result in a state-mandated local program.

Existing law provides that any county may contract on a nonexclusive basis with any qualified individual, organization, entity, or entities to provide or arrange for in-home supportive services, and specifies that the contracts may provide for a mode of service delivery under which the contractor is financially at risk for providing all in-home supportive services identified as necessary by the county to enrolled beneficiaries in the county.

This bill would repeal that provision.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12301.3 is added to the Welfare
2 and Institutions Code, to read:

3 12301.3. (a) Each county shall appoint an in-home
4 supportive services advisory committee that shall be
5 comprised of not more than 11 individuals. No less than
6 50 percent of the membership of the advisory committee
7 shall be individuals who are current or past users of
8 personal assistance services paid for through public or
9 private funds or as recipients of services under this article.

10 (b) Prior to the appointment of members to a
11 committee required by subdivision (a), the county board
12 of supervisors shall solicit recommendations of qualified
13 members through a fair and open process that includes
14 the provision of reasonable written notice to, and
15 reasonable response time by, members of the general
16 public and interested persons and organizations.

17 (c) The advisory committee shall submit
18 recommendations to the county board of supervisors on
19 the preferred mode or modes of service to be utilized in
20 the county for in-home supportive services.

21 (d) Any county that has established a governing body,
22 as provided in subdivision (b) of Section 12301.6 shall be
23 deemed to be in compliance with this section.

24 SEC. 1.5. Section 12301.4 is added to the Welfare and
25 Institutions Code, to read:

26 12301.4. Each advisory committee established
27 pursuant to Section 12301.3 or 12301.6 shall provide
28 ongoing advice and recommendations regarding
29 in-home supportive services to the county board of
30 supervisors, any administrative body in the county that is
31 related to the delivery and administration of in-home

1 supportive services, and the governing body and
2 administrative agency of the public authority, nonprofit
3 consortium, contractor, and public employees.

4 SEC. 2. Section 12302.25 is added to the Welfare and
5 Institutions Code, to read:

6 12302.25. (a) On or before January 1, 2003, each
7 county shall act as, or establish, an employer for in-home
8 supportive service providers under Section 12302.2 for
9 the purposes of Chapter 10 (commencing with Section
10 3500) of Division 4 of Title 1 of the Government Code and
11 other applicable state or federal laws. Each county may
12 utilize a public authority or nonprofit consortium as
13 authorized under Section 12301.6, the contract mode as
14 authorized under Sections 12302 and 12302.1, county
15 administration of the individual provider mode as
16 authorized under Sections 12302 and 12302.2 for purposes
17 of acting as, or providing, an employer under Chapter 10
18 (commencing with Section 3500) of Division 4 of Title 1
19 of the Government Code, county civil service personnel
20 as authorized under Section 12302, or mixed modes of
21 service; authorized pursuant to this article and may
22 establish regional ~~requirements~~ *agreements* in
23 establishing an employer for purposes of this subdivision
24 for providers of in-home supportive services. ~~On or~~
25 ~~before February 1, 2000~~ *Within thirty days of the effective*
26 *date of this section*, the department shall develop a
27 timetable for implementation of this subdivision to
28 ensure orderly compliance by counties. Recipients of
29 in-home supportive services shall retain the right to
30 choose the individuals that provide their care and to
31 recruit, select, *train*, reject, or change any provider under
32 the contract mode or to hire, fire, *train*, and supervise any
33 provider under any other mode of service. *Upon request*
34 *of a recipient, and in addition to a county's selected*
35 *method of establishing an employer for in-home*
36 *supportive service providers pursuant to this subdivision,*
37 *counties with an IHSS caseload of more than 500 shall be*
38 *required to offer an individual provider employer option.*

(b) Nothing in this section shall prohibit any negotiations or agreement regarding collective bargaining or any wage and benefit enhancements.

(c) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services.

(d) Prior to implementing subdivision (a), a county shall establish an advisory committee as required by Section 12301.3 and solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services.

(e) Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about the program on an ongoing basis.

(f) In implementing and administering this section, no county, public authority, nonprofit consortium, contractor, or a combination thereof, that delivers in-home supportive services shall reduce the hours of service for any recipient below the amount determined to be necessary under the uniform assessment guidelines established by the department.

(g) *Any agreement between a county and an entity acting as an employer under subdivision (a) shall include a provision that requires that funds appropriated by the state for wage increases for in-home supportive services providers be used exclusively for that purpose. Counties or the state may undertake audits of the entities acting as employers under the terms of subdivision (a) to verify compliance with this subdivision.*

SEC. 3. Section 12302.7 of the Welfare and Institutions Code is repealed.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school

1 districts for those costs shall be made pursuant to Part 7
2 (commencing with Section 17500) of Division 4 of Title
3 2 of the Government Code. If the statewide cost of the
4 claim for reimbursement does not exceed one million
5 dollars (\$1,000,000), reimbursement shall be made from
6 the State Mandates Claims Fund.

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